December 12, 2016

The Honorable Kathleen C. Hittner, MD
Health Insurance Commissioner
Rhode Island Department of Insurance Regulation
1511 Pontiac Ave, Building #69 First Floor
Cranston, RI 02920

Re: Blue Cross Blue Shield Health Plans Reduction of Modifier -25

Dear Dr. Hittner:

As organizations representing U.S. physicians, we write to express our strong opposition to a Blue Cross Blue Shield of Rhode Island (BCBS RI) policy (attached) implemented on October 15, 2016. This policy denies appropriate payment for Evaluation and Management (E/M) services billed with modifier -25, by arbitrarily reducing payment for those services by 50%. We are concerned with how this policy will affect access to care for consumers who have contracted with BCBS RI for timely delivery of health care services, and urge you to evaluate the decision to deny the appropriate payment for these services.

As you may be aware, our in-state partners representing the medical profession contacted BCBS RI to ask for a 90-day implementation delay. The intent of this delay was to allow time for your Office to review this policy to determine its appropriateness and impact on Rhode Island consumers. That request was denied, and we are now asking for your Office to intervene.

The intent of modifier -25, according to Current Procedural Terminology (CPT) guidelines, is to describe a significant, separately identifiable, and medically necessary E/M service performed on the same day as a procedure, outside of the global fee concept. In the course of skin examinations or evaluation of unrelated skin disease, for example, dermatologists sometimes discover suspicious lesions that necessitate a skin biopsy and/or other procedure, such as a destruction of a cancerous or precancerous lesion. Performance of a medically necessary procedure on the same day as an E/M service is generally done to facilitate a prompt diagnosis or streamline treatment of a complex condition. Providing medically necessary, distinct services on the same date allows physicians to provide effective and efficient, high quality care. In many cases this can result in not only saving patients a return visit, but the cost of additional co-pays as well.

Separate services should be reimbursed appropriately and in accordance with established coding conventions and guidelines, whether provided on the same date or different dates. Modifier -25 is specifically indicated for use when distinct E/M services not included in a procedure's AMA Relative Value Scale Update Committee (RUC) vignette and/or distinguishable from any E/M work inherent to a procedure's valuation are done. As such, -25 modifier specified E/M work is no less than what would be done if the patient were to be evaluated on a separate day. Therefore, it is totally unreasonable to arbitrarily diminish the value of that work by relegating it to a 50% payment reduction when it is done on the same day as a procedure.

It is unclear to the undersigned organizations how performance of a procedure on the same day as a separate E/M service justifies any reduction in full reimbursement of the E/M service. Physician work, practice expense, and malpractice inputs for E/M and procedure codes are purposely structured to ensure there is no overlap. Furthermore, the RUC is now automatically reducing procedure pre-service time estimates and value for all codes typically billed with an E/M visit (even if the code is often billed alone). Therefore, the value of codes commonly billed with a modified -25 have already been reduced in the Medicare fee schedule to account for the potential overlapping of work performed during an E/M service. Additional reduction in an appropriately billed, separate and unrelated E/M service is thus arbitrary, unfair, and without merit.

BCBS RI referenced a report from November 2005, where the Department of Health and Human Services (HHS) Office of Inspector General (OIG) performed an audit to determine if modifier -25 is used appropriately to justify this policy. In the study, OIG found that 35% of evaluated claims did not meet the threshold necessary for appropriate usage of modifier -25. As a result, OIG has recommended insurers educate providers on when modifier -25 is appropriate, this is an educational initiative the undersigned organizations have participated in and have developed resources for its members to promote compliance. It is important to note that neither HHS or OIG has recommended reducing payments for all claims using modifier -25 in the manner implemented by BCBS RI; in this report or any subsequent recommendations. Our organizations stand firmly in support of denying payment for inappropriate use of modifier -25. However, the method employed by BCBS RI inappropriately penalizes physicians using modifier -25 correctly, while failing to address inappropriate use whatsoever.

It is our understanding that BCBS RI calculates the relative value of its physician payments using the Medicare fee schedule as a guide. BCBS RI's new policy is now further reducing the value of these codes, since the value utilized by Medicare already takes into account efficiencies realized when both services are performed in the same day. As such, the undersigned organizations request data that justifies a 50% reduction in E/M value. The undersigned associations are gravely concerned that this policy could

lead to decreased access for patients who contracted with BCBS RI, especially if physicians determine that rates are unreasonably low and leave their network. While we do not support physicians requiring patients to return on a different day to have a procedure performed in order to allow a provider to maintain appropriate payment, it is a possible outcome. Neither of these scenarios provides a physician with an optimal treatment plan or patient with effective treatment for potentially dangerous conditions. As mentioned, the medical profession requested that BCBS RI reconsider implementation of its new modifier -25 policy as it inappropriately reduces the value of E/M procedures. The request was denied, and ongoing discussions have not been positive.

The undersigned organizations seek review of this policy by the Rhode Island Department of Insurance Regulation, and that its implementation be reversed. We believe you will find that it is inappropriate, and will have negative impact on access to care for Rhode Island consumers. We further request that BCBS RI provide a rationale that justifies the implemented 50% reduction and a report of the costs savings generated by this policy. We welcome the opportunity to engage in a dialogue about this issue and request an opportunity to meet with you at your convenience. Please contact David Brewster, Assistant Director for Practice Advocacy, American Academy of Dermatology Association at 202-609-6334 or dbrewster@aad.org to set up a mutually agreeable time to meet.

We thank you for your consideration of this important issue.

Sincerely,

American Academy of Dermatology Association
American Academy of Neurology
American Academy of Physical Medicine and Rehabilitation
American Association of Oral and Maxillofacial Surgeons
American College of Cardiology
American College of Osteopathic Family Practice
American College of Osteopathic Internists
American College of Mohs Surgery
American College of Radiology
American College of Rheumatology
American Osteopathic Academy of Orthopedics
American Osteopathic Association
American Osteopathic College of Dermatology
American Osteopathic College of Proctology
American Osteopathic College of Radiology
American Society for Dermatologic Surgery Association

American Society of Anesthesiologists
American Society of Plastic Surgeons
Coalition of State Rheumatology Organizations
Rhode Island Society of Anesthesiologists
Society of Interventional Radiology

Enclosure

cc: Rhode Island Medical Society
Rhode Island Society of Osteopathic Physicians & Surgeons